

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO RENEWAL OF
5 MEDICAL MARIJUANA REGISTRY IDENTIFICATION CARDS; ALLOWING VETERANS AND PERSONS
6 DIAGNOSED WITH A TERMINAL ILLNESS OR CONDITION TO RENEW THEIR REGISTRY
7 IDENTIFICATION CARD EVERY 3 YEARS; AND AMENDING SECTIONS 50-46-303, 50-46-310, AND 50-46-
8 344, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **Section 1.** Section 50-46-303, MCA, is amended to read:

13 **"50-46-303. Medical marijuana registry -- department responsibilities -- issuance of cards and**
14 **licenses -- confidentiality.** (1) The department shall establish and maintain a registry of persons who receive
15 registry identification cards or licenses under this part. The department shall issue:

- 16 (a) registry identification cards to Montana residents who have debilitating medical conditions and
17 who submit applications meeting the requirements of this part;
- 18 (b) licenses:
 - 19 (i) to persons who apply to operate as providers or marijuana-infused products providers and who
20 submit applications meeting the requirements of this part;
 - 21 (ii) for dispensaries established by providers or marijuana-infused products providers; and
 - 22 (iii) through the state laboratory, to testing laboratories that submit applications meeting the
23 requirements of this part; and
- 24 (c) endorsements for chemical manufacturing to a provider or a marijuana-infused products provider
25 who applies for a chemical manufacturing endorsement and meets requirements established by the department
26 by rule.
- 27 (2) (a) An individual who obtains a registry identification card and indicates the individual will not use
28 the system of licensed providers and marijuana-infused products providers to obtain marijuana or marijuana-

1 infused products is authorized to cultivate, manufacture, possess, and transport marijuana as allowed by this
2 part.

3 (b) An individual who obtains a registry identification card and indicates the individual will use the
4 system of licensed providers and marijuana-infused products providers to obtain marijuana or marijuana-
5 infused products is authorized to possess marijuana as allowed by this part.

6 (c) A person who obtains a provider, marijuana-infused products provider, or dispensary license or an
7 employee of a licensed provider or marijuana-infused products provider is authorized to cultivate, manufacture,
8 possess, sell, and transport marijuana as allowed by this part.

9 (d) A person who obtains a testing laboratory license or an employee of a licensed testing laboratory
10 is authorized to possess, test, and transport marijuana as allowed by this part.

11 (3) The department shall conduct criminal history background checks as required by 50-46-307 and
12 50-46-308 before issuing a license to a provider or marijuana-infused products provider.

13 (4) (a) Registry identification cards and licenses issued pursuant to this part must:

14 (i) be laminated and produced on a material capable of lasting for the duration of the time period for
15 which the card or license is valid;

16 (ii) state the name, address, and date of birth of the registered cardholder;

17 (iii) indicate whether the cardholder is obtaining marijuana and marijuana-infused products through the
18 system of licensed providers and marijuana-infused products providers;

19 (iv) indicate whether a provider or marijuana-infused products provider has an endorsement for
20 chemical manufacturing;

21 (v) state the date of issuance and the expiration date of the registry identification card or license;

22 (vi) contain a unique identification number; and

23 (vii) contain other information that the department may specify by rule.

24 (b) Except as provided in subsection (4)(c), in addition to complying with subsection (4)(a), registry
25 identification cards issued pursuant to this part must:

26 (i) include a picture of the registered cardholder; and

27 (ii) be capable of being used to track registered cardholder purchases.

28 (c) (i) The department shall issue temporary registry identification cards upon receipt of an

1 application. The cards are valid for 60 days and are exempt from the requirements of subsection (4)(b). Printing
2 of the temporary identification cards is exempt from the provisions of Title 18, chapter 7.

3 (ii) The cards may be issued before an applicant's payment of the fee has cleared. The department
4 shall cancel the temporary card after 60 days and may not issue a permanent card until the fee is paid.

5 (5) (a) The department or state laboratory, as applicable, shall review the information contained in an
6 application or renewal submitted pursuant to this part and shall approve or deny an application or renewal
7 within 30 days of receiving the application or renewal and all related application materials.

8 (b) If the department fails to act on a completed application within 30 days of receipt, the department
9 shall:

10 (i) refund the fee paid by an applicant for a registry identification card;

11 (ii) reduce the cost of the licensing fee for a new applicant for licensure or for a licensee seeking
12 renewal of a license by 5% each week that the application is pending; and

13 (iii) if a licensee is unable to operate because a license renewal application has not been acted on,
14 reimburse the licensee 50% of the gross sales the licensee reported in the most recent quarter for the purpose
15 of the tax provided for in 15-64-102.

16 (c) Applications that are not processed within 30 days of receipt remain active until the department
17 takes final action.

18 (d) An application for a license or renewal of a license is not considered complete until the department
19 has completed a satisfactory inspection as required by this part and related administrative rules.

20 (e) The department shall issue a registry identification card, license, or endorsement within 5 days of
21 approving an application or renewal.

22 (6) Review of a rejection of an application or renewal may be conducted as a contested case hearing
23 pursuant to the provisions of the Montana Administrative Procedure Act.

24 (7) (a) ~~Registry identification cards expire 1 year after the date of issuance unless~~ Unless a physician
25 has provided a written certification stating that a card is valid for a shorter period of time, registry cards expire:

26 (i) 3 years after the date of issuance if the patient is a veteran or has been diagnosed with a terminal
27 illness or condition; or

28 (ii) 1 year after the date of issuance for all other patients.

1 (b) Licenses and endorsements issued to providers, marijuana-infused products providers, and
2 testing laboratories must be renewed annually.

3 (8) (a) A registered cardholder shall notify the department of any change in the cardholder's name,
4 address, or physician or change in the status of the cardholder's debilitating medical condition within 10 days of
5 the change.

6 (b) A registered cardholder who possesses mature plants or seedlings under 50-46-319(1) shall notify
7 the department of the location of the plants and seedlings or any change of location of plants or seedlings. The
8 department shall provide the names and locations of cardholders who possess mature plants or seedlings to
9 the local law enforcement agency having jurisdiction in the area in which the plants or seedlings are located.
10 The law enforcement agency and its employees are subject to the confidentiality requirements of 50-46-332.

11 (c) If a change occurs and is not reported to the department, the registry identification card is void.

12 (9) The department shall maintain a confidential list of individuals to whom the department has issued
13 registry identification cards. Except as provided in subsections (8)(b) and (10), individual names and other
14 identifying information on the list must be confidential and are not subject to disclosure, except to:

15 (a) authorized employees of the department as necessary to perform the official duties of the
16 department;

17 (b) authorized employees of state or local government agencies, including law enforcement agencies,
18 only as necessary to verify that an individual is a lawful possessor of a registry identification card;

19 (c) a judge, magistrate, or other authorized judicial officer in response to an order requiring disclosure;
20 and

21 (d) another person or entity when the information pertains to a cardholder who has given written
22 consent to the release and has specified:

23 (i) the type of information to be released; and

24 (ii) the person or entity to whom it may be released.

25 (10) The department shall provide the names and phone numbers of providers and marijuana-infused
26 products providers and the city, town, or county where registered premises and testing laboratories are located
27 to the public on the department's website. The department may not disclose the physical location or address of
28 a provider, marijuana-infused products provider, dispensary, or testing laboratory.

1 (11) The department may share only information about providers, marijuana-infused products
2 providers, dispensaries, and testing laboratories with the department of revenue for the purpose of investigation
3 and prevention of noncompliance with tax laws, including but not limited to evasion, fraud, and abuse. The
4 department of revenue and its employees are subject to the confidentiality requirements of 15-64-111(1)."

5

6 **Section 2.** Section 50-46-310, MCA, is amended to read:

7 **"50-46-310. Written certification -- accompanying statements.** (1) The written certification
8 provided by a physician must be made on a form prescribed by the department and signed and dated by the
9 physician. The written certification must:

10 (a) include the physician's name, license number, and office address and telephone number on file
11 with the board of medical examiners and the physician's business e-mail address, if any; and

12 (b) the name, date of birth, and debilitating medical condition of the patient for whom the physician is
13 providing written certification.

14 (2) A treating physician or referral physician who is providing written certification for a patient shall
15 provide a statement initialed by the physician that must:

16 (a) confirm that the physician is:

17 (i) the patient's treating physician and that the patient has been under the physician's ongoing medical
18 care as part of a bona fide professional relationship with the patient; or

19 (ii) the patient's referral physician;

20 (b) confirm that the patient suffers from a debilitating medical condition;

21 (c) describe the debilitating medical condition, why the condition is debilitating, and the extent to
22 which it is debilitating;

23 (d) confirm that the physician has assumed primary responsibility for providing management and
24 routine care of the patient's debilitating medical condition after obtaining a comprehensive medical history and
25 conducting a physical examination, whether in person or, in accordance with subsection (4), through the use of
26 telemedicine, that included a personal review of any medical records maintained by other physicians and that
27 may have included the patient's reaction and response to conventional medical therapies;

28 (e) describe the medications, procedures, and other medical options used to treat the condition;

- 1 (f) state that the medications, procedures, or other medical options have not been effective;
- 2 (g) confirm that the physician has reviewed all prescription and nonprescription medications and
- 3 supplements used by the patient and has considered the potential drug interaction with marijuana;
- 4 (h) state that the physician has a reasonable degree of certainty that the patient's debilitating medical
- 5 condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit
- 6 from the use of marijuana;
- 7 (i) confirm that the physician has explained the potential risks and benefits of the use of marijuana to
- 8 the patient;
- 9 (j) list restrictions on the patient's activities due to the use of marijuana;
- 10 (k) specify the time period for which the use of marijuana would be appropriate, up to:
- 11 (i) a maximum of 3 years for a patient who is a veteran or who has been diagnosed with a terminal
- 12 illness or condition; or
- 13 (ii) a maximum of 1 year for all other patients;
- 14 (l) state that the physician will:
 - 15 (i) continue to serve as the patient's treating physician or referral physician; and
 - 16 (ii) monitor the patient's response to the use of marijuana and evaluate the efficacy of the treatment;
- 17 and
- 18 (m) contain an attestation that the information provided in the written certification and accompanying
- 19 statements is true and correct.
- 20 (3) A physician who is the second physician recommending marijuana for use by a minor shall submit:
 - 21 (a) a statement initialed by the physician that the physician conducted a comprehensive review of the
 - 22 minor's medical records as maintained by the treating physician or referral physician;
 - 23 (b) a statement that in the physician's professional opinion, the potential benefits of the use of
 - 24 marijuana would likely outweigh the health risks for the minor; and
 - 25 (c) an attestation that the information provided in the written certification and accompanying
 - 26 statements is true and correct.
 - 27 (4) A physician who is providing written certification through the use of telemedicine:
 - 28 (a) shall comply with the administrative rules adopted for telemedicine by the board of medical

1 examiners provided for in 2-15-1731; and

2 (b) may not use an audio-only visit unless the physician has first established a physician-patient
3 relationship through an in-person encounter.

4 (5) If the written certification states that marijuana should be used for less than 1 year, the department
5 shall issue a registry identification card that is valid for the period specified in the written certification."
6

7 **Section 3.** Section 50-46-344, MCA, is amended to read:

8 **"50-46-344. Rulemaking authority -- fees.** (1) The department may adopt rules only as authorized in
9 this section to specify:

10 (a) the manner in which the department will consider applications for licenses and endorsements and
11 applications for registry identification cards for individuals with debilitating medical conditions and renewal of
12 licenses, endorsements, and registry identification cards;

13 (b) the acceptable forms of proof of Montana residency;

14 (c) the procedures for obtaining fingerprints for the fingerprint and background check required under
15 50-46-307 and 50-46-308;

16 (d) the security and operating requirements for dispensaries;

17 (e) the security and operating requirements for chemical manufacturing, including but not limited to
18 requirements for:

19 (i) safety equipment;

20 (ii) extraction methods, including solvent-based and solvent-free extraction; and

21 (iii) postprocessing procedures;

22 (f) notice and contested case hearing procedures for fines or license and endorsement revocations,
23 suspensions, or modifications;

24 (g) the amount of usable marijuana that a registered cardholder who has elected not to use the
25 system of licensed providers and marijuana-infused products providers may possess;

26 (h) implementation of a system to allow the tracking of marijuana and marijuana-infused products as
27 required by 50-46-304;

28 (i) requirements and standards for the testing and retesting of marijuana and marijuana-infused

1 products, including testing of samples collected during the department's inspections of registered premises;
2 (j) the amount of variance allowable in the results of raw testing data that would warrant a
3 departmental investigation of inconsistent results as provided in 50-46-304(7);
4 (k) the activities that constitute advertising in violation of 50-46-341; and
5 (l) the fees for cardholders, endorsements for chemical manufacturing, testing laboratories, additional
6 canopy licensure tiers created in accordance with 50-46-305, and the fingerprint and background checks
7 required under 50-46-308 and 50-46-311. The fees and other revenues collected through the taxes paid under
8 15-64-102, civil penalties imposed pursuant to this part, and the licensing fees established by rule and in 50-46-
9 347 must be sufficient to offset the expenses of administering this part. The ~~annual~~ cardholder license renewal
10 fee may not be less than \$20.

11 (2) In establishing the canopy for a provider or marijuana-infused products provider, the department
12 shall take into consideration:

- 13 (a) safety and security issues;
- 14 (b) the need to avoid overproduction of marijuana and marijuana-infused products;
- 15 (c) the provision of adequate access to usable marijuana to accommodate the needs of registered
16 cardholders; and
- 17 (d) economies of scale and their effect on the ability of licensees to comply with regulatory
18 requirements and undercut illegal market prices.

19 (3) The administrative rules promulgated under this part for testing laboratories must be developed
20 and proposed by the state laboratory."

21 - END -